

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

THOMAS ISLEY *et al.*, on behalf of
themselves and the putative class,

Plaintiff,

v.

BMW OF NORTH AMERICA, LLC and
BAVARIAN MOTOR WORKS AG,

Defendants.

Case No. 2:19-cv-12680-ES-ESK

**STIPULATION AND ORDER REGARDING FILING OF SECOND AMENDED
COMPLAINT AND DISMISSAL OF BAYERISCHE MOTOREN WERKE
AKTIENGESELLSCHAFT**

WHEREAS, Plaintiffs filed a putative class action in the United States District Court for the District of New Jersey (*Isley et al. v. BMW of North America, LLC, et al.*, Case No. 19-cv-12680-ES-ESK) on May 17, 2019 (the “Action”) (DE 1); and

WHEREAS, Plaintiffs filed a First Amended Class Action Complaint (DE 6) on July 22, 2019; and

WHEREAS, BMW of North America, LLC (“BMW NA”) filed a Motion to Dismiss the First Amended Complaint (DE 11) on August 26, 2019; and

WHEREAS, neither BMW NA nor Bayerische Motoren Werke Aktiengesellschaft (“BMW AG”) (improperly named as “Bavarian Motor Works AG”) have filed an answer, by agreement of the parties and with consent of the Court; and

WHEREAS, Plaintiffs wish to file a Second Amended Complaint for settlement purposes only; and

WHEREAS, Plaintiffs have agreed to dismiss BMW AG, without prejudice;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for Plaintiffs and Defendants, as follows:

1. Upon execution of this stipulation, Plaintiffs will file a stipulation of dismissal, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), dismissing BMW AG, without prejudice, from the Action. Rule 41(d), pertaining to costs of a previously dismissed action, will not apply to this dismissal in the event BMW AG is brought back into the Action.

2. The parties agree that the running of any and all applicable statutes of limitations, repose, or other defenses or limitations on actions, including but not limited to the entire controversy doctrine, laches, waiver, and estoppel, with respect to both individual and putative class action claims shall be tolled and suspended as of February 28, 2020, until the termination of the Action.

3. Upon the dismissal of BMW AG, Plaintiffs may file a Second Amended Complaint for settlement purposes that (a) excludes BMW AG as a named defendant; (b) adds an additional three (3) class representatives; and (c) expands the allegations to encompass a nationwide class consistent with the settlement.

4. Because the Second Amended Complaint is being filed solely for the purposes set forth herein, BMW NA does not need to respond to it, unless the settlement is not finally approved or litigation recommences for any reason, in which case the parties will meet and confer regarding an appropriate response date.

IN WITNESS WHEREOF, Plaintiffs and Defendants, by and through their respective counsel, have executed this Stipulation as of the date(s) indicated on the lines below.

/s/ Frederick J. Klorczyk, III, Esq.
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Date: May 26, 2021

*Attorneys for Plaintiffs
and the Putative Classes*

Date: May 26, 2021

*Attorneys for Defendants
BMW of North America, LLC and
Bayerische Motoren Werke
Aktiengesellschaft*

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED

Dated: **June 21, 2021** _____

/s/ Edward S. Kiel

U.S. Magistrate Judge Edward S. Kiel